



**Billing Code 3190-W2**

**Office of the United States Trade Representative**

**Request for Comments Concerning Compliance with Telecommunications Trade Agreements**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of request for public comment and reply comment.

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**SUMMARY:** Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (“Section 1377”), the Office of the United States Trade Representative (“USTR”) is reviewing and requests comments on the operation, effectiveness, and implementation of and compliance with the following agreements regarding telecommunications products and services of the United States: the World Trade Organization (“WTO”) General Agreement on Trade in Services; the North American Free Trade Agreement (“NAFTA”); U.S. free trade agreements (“FTAs”) with Australia, Bahrain, Chile, Morocco, Oman, Peru, and Singapore; and the Dominican Republic–Central America–United States Free Trade Agreement (“CAFTA-DR”), and any other telecommunications trade agreements, such as Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment. The USTR will conclude the review by March 31, 2012.

**DATES:** Comments are due on December 16, 2011 and reply comments on January 13, 2012.

**ADDRESSES:** Donald W. Eiss, Trade Policy Staff Committee, or Jonathan McHale, DAUSTR, Telecom Trade Policy, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 1724 F Street, NW, Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Jonathan McHale, Office of Services and Investment (202) 395-9533; or Maria Pagan, Office of the General Counsel (202) 395-9626.

**SUPPLEMENTARY INFORMATION:** Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into an FTA or other telecommunications trade agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its obligations under WTO agreements affecting market opportunities for telecommunications products or services, e.g., the WTO General Agreement on Trade in Services (“GATS”), including the Agreement on Basic Telecommunications Services, the Annex on Telecommunications, and any scheduled commitments including the Reference Paper on Pro-Competitive Regulatory Principles; the WTO Agreement on Subsidies and Countervailing Measures; the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights; or the plurilateral WTO Agreement on Government Procurement.

(2) Whether Canada or Mexico has failed to comply with its telecommunications obligations under the NAFTA;

(3) Whether Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras or Nicaragua has failed to comply with its telecommunications obligations under the CAFTA-DR;

- (4) Whether Australia, Bahrain, Chile, Morocco, Oman, Peru, or Singapore has failed to comply with its telecommunications obligations under its FTA with the United States (see <http://www.ustr.gov/trade-agreements/free-trade-agreements> for links to U.S. FTAs);
- (5) Whether any country has failed to comply with its obligations under telecommunications trade agreements with the United States other than FTAs, e.g., Mutual Recognition Agreements (MRAs) for Conformity Assessment of Telecommunications Equipment (see <http://ts.nist.gov/standards/conformity/mra/mra.cfm> for links to certain U.S. telecommunications MRAs);
- (6) Whether any act, policy, or practice of a country cited in a previous section 1377 review remains unresolved (see <http://www.ustr.gov/trade-topics/services-investment/telecom-e-commerce/section-1377-review> for recent reviews); and
- (7) Whether any measures or practices impede access to telecommunications markets or otherwise deny telecommunications products and services market opportunities with respect to any country that is a WTO member or for which an FTA or telecommunications trade agreement has entered into force between such country and the United States. Measures or practices of interest include, for example, efforts by a foreign government or a telecommunications service provider to block services delivered over the Internet (including, but not limited to voice over Internet protocol services, social networking, and search services); requirements for access to or use of networks that limit the products or services U.S. suppliers can offer in specific foreign markets; the imposition of excessively high licensing fees; unreasonable wholesale roaming rates that mobile telecommunications service suppliers in specific foreign markets charge U.S. suppliers that seek to supply international mobile roaming services to their U.S. customers; discriminatory procedures that foreign governments apply in allocating or allowing use of

spectrum or other scarce resources; subsidies provided to equipment manufactures which are contingent upon exporting or local content, or have caused adverse effects to domestic equipment manufacturers (supported by evidence and/or identifiable legal measures); and the imposition by foreign governments of unnecessary or discriminatory technical regulations or standards for telecommunications products or services. In all cases, commenters should provide any available documentary evidence, translated into English where necessary, to facilitate evaluation of a claim.

### **Public Comment and Reply Comment: Requirements for Submission**

Comments in response to this notice must be written in English, must identify (on the first page of the comments) the telecommunications trade agreement(s) discussed therein, and must be submitted no later than December 16, 2011. Reply comments must also be in English and must be submitted no later than January 13, 2012. Comments and reply comments must be submitted using <http://www.regulations.gov>, docket number USTR-2010-0034. In the unusual case where submitters are unable to make submissions through Regulations.gov, the submitter must contact Donald W. Eiss at (202) 395 – 9603 to make alternate arrangements.

To submit comments using <http://www.regulations.gov>, enter docket number USTR-2010-0034 under “Key Word or ID” on the home page and click “Search”. The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting “Notices” under “Document Type” on the search-results page, and click on the link entitled “Submit a Comment.” Follow the instructions given on the screen to submit a comment. The <http://www.regulations.gov> Web site offers the option of providing comments by filling in a

“Type Comment” field or by attaching a document. While both options are acceptable, USTR prefers submissions in the form of an attachment.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

Submitters should provide updated information on all issues they cite in their filings; USTR will not review submissions that are copies of earlier submissions.

### **Business Confidential Submissions**

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC”. The top of any page containing business confidential information must be clearly marked

“BUSINESS CONFIDENTIAL”. Any person filing comments that contain business confidential information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments. The submitter must include in the comments a written explanation of why the information should be protected. The submission must indicate, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either “PUBLIC VERSION” or “NON-CONFIDENTIAL”.

### **Public Inspection of Submissions**

Comments will be placed in the docket and open to public inspection, except confidential business information exempt from public inspection. Comments may be viewed on the <http://www.regulations.gov> Web site by entering the relevant docket number in the search field on the home page.

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Donald Eiss,  
*Acting Chair, Trade Policy Staff Committee.*

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